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Emergency rules now in effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Agriculture, Trade & Consumer Protection

Rules adopted revising **ch. ATCP 80**, relating to pathogen-tests on ready-to-eat dairy products.

Finding of emergency

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) DATCP licenses and inspects dairy plants under s. 97.20, Stats. Current DATCP rules, under s. ATCP 80.56 (4), Wis. Adm. Code, require dairy plant operators to report to DATCP the results of any microbiological test that confirms the presence of a pathogenic organism in a pasteurized or ready-to-eat dairy product.

(2) There has been a nationwide increase in food borne disease outbreaks associated with food and dairy products. Such outbreaks can occur when ready-to-eat foods enter food distribution channels without being tested for pathogenic bacteria.

(3) There is no national or state law requiring dairy plant operators to test ready-to-eat dairy products for pathogens prior to sale or distribution. Dairy plant operators have a natural incentive to test, in order to avoid liability and meet their customers' product safety demands. But the current test reporting requirement under s. ATCP 80.56 (4) discourages pathogen testing, because test reports become public records that may be open to public inspection even if the affected products are withheld from distribution.

(4) There is an urgent need to repeal this counterproductive reporting requirement, and to create alternative rules that will encourage pathogen testing and provide stronger public health protection. This emergency rule will encourage more pathogen testing, and provide stronger public health

protection, pending the adoption of "permanent" rule changes.

Publication Date: March 2, 2001
Effective Date: March 2, 2001
Expiration Date: July 30, 2001
Hearing Dates: June 14 & 15, 2001

Commerce

(Flammable and Combustible Liquids – Ch. Comm 10)

Rules adopted revising **s. Comm 10.345**, relating to the effective date of required upgrades to aboveground bulk tanks that were in existence on May 1, 1991.

Finding of emergency

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

Wisconsin Administrative Code ch. Comm 10, Flammable and Combustible Liquids Code, became effective on 5/1/91. Section Comm 10.345 (2) contains requirements for bulk tanks in existence on that date to be provided with specific containment or leak detection upgrades within 10 years of that date. Some concerns have been expressed on the impact that compliance date could have on heating oil supplies and prices this winter. Construction requirements could result in a substantial number of tanks storing heating oil to be closed during the winter heating season in preparation for the required upgrades.

Based on these concerns, the department has agreed to extend the compliance deadline for 3 months until 8/1/01 if approvable tank system upgrade plans have been submitted to the department by 2/1/01.

Publication Date: January 6, 2001
Effective Date: January 6, 2001
Expiration Date: June 4, 2001
Hearing Date: February 27, 2001
Extension Through: August 2, 2001

Commerce

(Financial Assistance for Businesses and Communities) (Chs. Comm 105–128)

Rules adopted revising **ch. Comm 113** relating to the allocation of volume cap on tax-exempt private activity bonds.

Finding of emergency

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

Pursuant to s. 560.032, Stats., the Department of Commerce (Commerce) is responsible for administering the allocation of volume cap. The emergency rule is being adopted to incorporate in the administrative code recent changes to the Internal Revenue Code (Section CFR 146) which increases state volume cap limits on tax-exempt private activity bonds. The year 2000 limit was \$50 per resident of the state. For the year 2001 the limit has been raised to \$62.50; for the year 2002, the limit will be \$75.00;

and thereafter, the limit will be indexed to inflation. The rule identifies a formula for the allocation of volume cap for the year 2001 and future years. This emergency rule outlines the distribution of the volume cap between the State Building Commission, the Wisconsin Housing and Economic Development Authority, and Commerce. The rules are also being revised to provide an allocation process that will allow Commerce to be more responsive to the needs of businesses as changes occur in the state's economy.

Publication Date: April 26, 2001
Effective Date: April 26, 2001
Expiration Date: September 23, 2001

Corrections

Rules adopted revising **ch. DOC 309**, relating to sexually explicit material at adult correctional institutions.

Finding of emergency

The Department of Corrections finds that an emergency exists and that rules are necessary for preservation of the public welfare. A statement of the facts constituting the emergency is: Effective December 1, 1998, the Department implemented rules restricting inmates' access to sexually explicit material. These rules were challenged in federal court in a class action suit brought by several inmates (*Aiello v. Litscher*, Case No. 98-C-791-C, Western District of Wisconsin). The defendants filed a motion for summary judgment, but it was denied by the court in language that suggested the rules were unconstitutional in their present form based on a number of federal appellate court decisions that were reported after the rules were implemented.

In light of these developments, the parties negotiated a settlement which includes an immediate revision of the present rules to conform to the latest decisional law regarding the extent to which inmates' access to sexually explicit material can be restricted for legitimate penological objectives. Adoption of the revised rules no later than February 23, 2001, is necessary to avoid a lapse of the settlement agreement and lengthy trial with the attendant possibility of having to pay a considerable amount in attorneys' fees.

This order:

- Revises the present rules restricting inmates' access to sexually explicit material by prohibiting access to published material that depicts nudity on a routine or regular basis or promotes itself based on nudity in the case of individual one-time issues.
- Revises the present rules by prohibiting access to written material when it meets the legal definition of obscenity.

Publication Date: February 23, 2001
Effective Date: February 23, 2001
Expiration Date: July 23, 2001
Hearing Date: May 3, 4 & 9, 2001

Employment Relations Commission

Rules were adopted amending **ch. ERC 33, Appendices A, B and C** relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

Finding of emergency

As required by s. 227.24 (1), Stats., we find that it is necessary to promulgate the amendment to ch. ERC 33, Appendices A, B, and C as an emergency rule to preserve the

public peace, health, safety and welfare. Absent promulgation of this emergency rule, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

The amendment of ch. ERC 33, Appendices A, B and C is required by 1999 Wisconsin Act 9's amendment of the statutory definition of a qualified economic offer in s. 111.70 (1) (nc) 1. c., Stats., and the ruling of the Wisconsin Court of Appeals in *Racine Education Ass'n v. WERC*, 238, Wis.2d 33 (2000). The amended statutory definition of qualified economic offer first applies to school district professional employee bargaining agreements covering the period of July 1, 2001 through June 30, 2003.

As amended, ch. ERC 33, Appendices A, B and C allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor organization representing the district's professional employees as part of a qualified economic offer. As amended, ch. ERC 33, Appendices A, B and C implement (1) the statutory requirement that salary increases due to a promotion or the attainment of increased professional qualifications are not part of a qualified economic offer; and (2) the ruling of the Court in *Racine Education Ass'n v. WERC* that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

Publication Date: January 22, 2001
Effective Date: January 22, 2001
Expiration Date: June 20, 2001

Financial Institutions – Securities

Rules adopted revising **ch. DFI–Sec 5**, relating to adopting for use in Wisconsin the Investment Adviser Registration Depository.

Finding of emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The U.S. Securities and Exchange Commission ("SEC"), in conjunction with the North American Securities Administrators Association ("NASAA"), an organization comprised of the securities administrators of all 50 states, including Wisconsin, has developed an electronic filing system for licensure of investment advisers to replace the paper filing system which heretofore has been used in all states. The system, the Investment Adviser Registration Depository (IARD), will permit investment advisers to satisfy their initial and renewal filing obligations to obtain licensure under the federal and state securities laws with a single electronic filing made over the Internet, instead of having to make separate paper filings with the SEC and with each state in which the investment adviser seeks to do business.

After several years in development and a pilot phase in the fall of 2000 that the Division participated in, the commencement date for states and the SEC to accept filings under the IARD has been set for January 1, 2001. Consequently, NASAA member states, including Wisconsin, need to take the necessary rule-making or other regulatory action by January 1, 2001 to enable investment advisers to make their licensing filings electronically. The Emergency Rules make the necessary changes to the Division's investment adviser license filing provisions that are immediately needed to adopt the IARD for use in Wisconsin by investment advisers.

The IARD will be operated by NASD Regulation, Inc., a self-regulatory organization that for 20 years has operated an equivalent electronic filing system (the Central Registration Depository or "CRD") for federal and state licensure of securities broker-dealers and their sales agents. As with the CRD, the IARD will provide the advantages of: (1) elimination of paper filings; (2) a single filing will satisfy federal and state filing requirements; and (3) automatic payment of state licensing fees to the states where the investment adviser does business. Additionally and importantly, the IARD will provide the investing public with immediate, real-time access to information about investment advisers and their representatives.

Congress in its passage of the National Securities Markets Improvement Act in 1996 provided for the development of this electronic filing system for investment advisers, and the SEC has adopted rules mandating such. The SEC and the states have been working together to develop both the necessary changes to the filing form (Form ADV), and to the filing procedures to achieve uniformity in the filing processes and procedures. Additionally, to achieve uniformity among the states in the adoption of rules implementing the IARD, a NASAA Working Group has developed Model Rules (with commentary) to coordinate with the SEC requirements. The Wisconsin Emergency Rules adopted herein follow the NASAA Model Rules.

The Emergency Rules provide for: (1) a revised Licensing Procedure section in s. DFI-Sec 5.01 (1) and (2); (2) temporary and permanent hardship exemption provisions in s. DFI-Sec 5.01 (11); (3) a revised brochure rule in s. DFI-Sec 5.05(8); (4) revised filing periods and license expiration dates for licenses of investment advisers and investment adviser representatives, as well as for license withdrawals in ss. DFI-Sec 5.07 and 5.08; (5) a revised procedure for filings by federal covered advisers in s. DFI-Sec 5.11; and (6) a specific section in s. DFI-Sec 5.12 dealing with transition filings. Separate from these Emergency Rules, the Division will be issuing General Orders to further implement timing for various categories of filers, and which will provide partial fee rebates for 2001 for the smaller, state-only licensed advisers to help defray the initial one-time fee (of \$150) they must pay for their initial participation in the IARD.

Publication Date: December 29, 2000
Effective Date: January 1, 2001
Expiration Date: May 31, 2001
Hearing Date: April 18, 2001
Extension Through: July 29, 2001

Health & Family Services

(Health, Chs. HFS 110-)

Rules adopted revising **ch. HFS 163**, relating to certification for the identification, removal and reduction of lead-based paint hazards.

Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Summary

September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD) assume states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The

Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Without DHFS issuance of revised training program requirements, Wisconsin's lead training programs will not alter their courses to HUD standards or receive state accreditation in time for sufficient personnel to be trained by the time high demands for lead abatement commences. To sanction ill-trained lead abatement personnel by March 15, 2001, the Department would needlessly endanger the health of both untrained lead abatement personnel and the public whose residences are affected.

Lead Abatement Activities

Residences built before 1978 have a high likelihood of containing lead-based paint. When lead-based paint is in poor condition or when it is disturbed through activities such as sanding or scraping, the paint can break down into chips and dust that become a potential source of lead poisoning for occupants. Wisconsin has nearly 500,000 rental units and 1 million owner-occupied units built before 1978 and presumed to contain lead-based paint.

Exposure to lead in paint, dust or soil has both short-term and long-term adverse health effects on children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. When not fatal, these effects on the body last a lifetime. Of 63,400 Wisconsin children under the age of 6 screened for lead poisoning in 1999, 3,744 were identified as having lead poisoning. However, the number of children affected by lead poisoning is probably much greater, since the 63,400 screened represented only 16% of the state's children under the age of 6. Many of these children would not become lead poisoned if pre-1978 dwellings did not have deteriorated paint or lead-based paint on friction or impact surfaces and if lead-safe techniques were used when disturbing lead-based paint.

Lead poisoning can also affect older children and adults. In 1999, a 40-year old man employed to remove paint from windows of a rental dwelling was severely lead poisoned. He was hospitalized with complaints of headaches and joint pain. He underwent multiple sessions of chelation therapy to remove some of the lead from his blood, but still suffered serious neurological damage, which affected his speech and balance. This man's lead poisoning could have been avoided if he had been trained to use lead-safe techniques and personal protection equipment.

Existing Wisconsin Law

Chapter 254, Stats., provides for a comprehensive lead hazard reduction program, including lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. Under the authority of Chapter 254, Stats., the Department promulgated Chapter HFS 163, Wis. Adm. Code, in 1988 to provide rules for the certification of individuals performing lead hazard reduction and for the accreditation of the courses that prepare individuals for certification. These rules have been revised over time to meet requirements of the U.S. Environmental Protection Agency (EPA).

Wisconsin met federal standards for a state-administered lead training accreditation and certification program and received EPA authorization effective January 27, 1999. The Department's Asbestos and Lead Section of the Bureau of Occupational Health administers and enforces lead-based paint training, certification and work practice provisions of Chapter HFS 163, Wis. Adm. Code. The Section operates on

a combination of program revenue and lead program development grants from the EPA.

Under Chapter HFS 163, Wis. Adm. Code, a person offering, providing or supervising lead-based paint activities for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform these activities. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Health and Safety Administration for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16-hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16-hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8-hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24-hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16-hour lead (Pb) risk assessor course.

New Federal Regulations

The U.S. Department of Housing and Urban Development (HUD) revised 24 CFR Part 35 effective September 15, 2000. The regulations require most properties owned by the federal government or receiving federal assistance to conduct specified activities to make the property lead-safe. Specifically, these regulations affect property owners receiving federal rehabilitation funds and landlords whose tenants receive federal rental assistance. To meet HUD's lead-safe standards, most affected properties must have a risk assessment completed and must use certified persons to reduce or eliminate the lead-based paint hazards identified in the risk assessment report. Property owners must also use trained people to perform maintenance or renovation activities and must have clearance conducted after completing activities that disturb lead-based paint. Clearance is a visual inspection and dust-lead sampling to verify that lead-based paint hazards are not left behind. The HUD regulations also establish a new, research-based standard for clearance that is more protective than HUD's previously recommended standard.

The EPA has issued a memorandum urging States to implement a lead sampling technician discipline for which a 1-day training course would be required. Addition of this discipline would help to meet the increased demand for clearance under both the HUD regulations and renovation and remodeling regulations being considered by EPA.

The EPA is preparing to promulgate lead renovation and remodeling regulations under 40 CFR Part 745. Under these training and certification regulations for renovators, any person who disturbs paint in a pre-1978 dwelling, other than a homeowner performing activities in an owner-occupied dwelling, will have to complete lead-safe training. EPA is also considering requiring clearance after any activity that disturbs paint in a pre-1978 dwelling, except when work on owner-occupied property was done by the property owner.

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead-free or lead-safe status and registering the properties for which certificates are issued. If a dwelling unit has a valid certificate

of lead-free or lead-safe status when a person who resides in or visits the unit is lead poisoned, the property owner, and his or her agents and employees are generally immune from civil and criminal liability for their acts or omissions related to the lead poisoning or lead exposure. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead-free and lead-safe property, and the procedures for issuing certificates of lead-free status and lead-safe status, are being promulgated separately and are not expected to be published for several months.

Result of Changing Federal and State Requirements

New HUD regulations create an urgent need for appropriately trained and certified workers to conduct activities that reduce or identify lead-based paint hazards. Due to a lack of trained and certified individuals to perform the activities required by the HUD regulations, housing agencies in Wisconsin have been forced to ask HUD for a 6-month extension before beginning enforcement of the regulations. To be granted the extension, the agencies must provide a plan for increasing the number of certified persons to meet the demand by March 15, 2001. If HUD does not grant an extension, millions of dollars in federal funding for rehabilitation and lead hazard reduction may be lost.

In addition to the demand for certified persons generated by the HUD regulations, Act 113 is generating its own demand for certified persons. Many property owners want to begin reducing lead-based paint hazards on their properties in order to meet the standards for lead-free or lead-safe property when the standards take effect. Although property owners and their employees may be certified now under Chapter HFS 163, Wis. Adm. Code, some property owners feel 5 days of training is too extensive for the work they will be performing. Act 113 requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. This emergency rule meets the requirement of Act 113 by providing for certification as a lead (Pb) low-risk supervisor to independently perform limited lead hazard reduction activities after only 2 days of training.

Department Response

The Department is gravely concerned that a lack of properly trained and certified individuals to meet the increased demand may lead to an increase in lead poisoning due to work being performed by untrained individuals. The new disciplines in this emergency order will help meet the demand for certified individuals because the rules reduce the training hours required for certification by targeting training to specific activities. With more individuals becoming certified, housing authorities and property owners will be able to comply with HUD regulations and property owners will be able to reduce lead-based paint hazards in preparation for the implementation of Act 113 lead-free and lead-safe property standards.

In promulgating these revisions to the certification and training accreditation requirements under chapter HFS 163, the Department seeks to meet the needs of all the parties affected by training or certification requirements under State, federal or local lead regulations. For each revision made by these rules, the Department considered the impact of the cost, the ease with

which persons could comply, the ability to easily move to a higher level of certification, and the consistency with other regulations. In developing the low-risk worker and low-risk supervisor disciplines, the Department also considered potential requirements of EPA's renovation and remodeling regulations.

The Department divided required training into smaller independent modules to allow individuals to complete the least amount of training necessary to safely and accurately perform the lead-based paint activities for which the individual becomes certified. In addition, the Department:

- Divided lead hazard reduction activities into those that are low-risk and high-risk.
- Divided site management activities into project design and supervision of low-risk versus high-risk activities.
- Divided lead investigation activities conducted by lead risk assessors into sampling, inspection, and hazard investigation.
- Revised the definitions, training and certification requirements and accreditation standards to reflect these categories of activities.

Publication Date: December 1, 2000

Effective Date: December 1, 2000

Expiration Date: April 30, 2001

Hearing Date: January 12, 16, 17, 18 and 19, 2001

Extension Through: June 28, 2001

Natural Resources – (2) **(Fish, Game, etc., Chs. NR 1–)**

1. Rules adopted creating **s. NR 1.445** and revising **ch. NR 51**, relating to the stewardship program.

Exemption from finding of emergency

Emergency rules are necessary for the department to act as authorized under s. 23.0917, Stats., as created by 1999 Wis. Act 9. According to section 9136 (10g) of this Act, the department is not required to make a finding of emergency or provide evidence that promulgating this emergency rule is necessary for the preservation of public peace, health, safety or welfare. In addition, the emergency rules promulgated under this authority remain in effect until June 30, 2001, or until the date on which the corresponding permanent rules take effect, whichever is sooner.

Analysis prepared by the Dept. of Natural Resources:

Statutory authority: ss. 227.11 (2), 227.24, Stats, and s. 9136 (10g), 1999 Wis. Act 9

Statutes interpreted: ss. 23.09 (19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.29, 23.295, 30.24 and 30.277, Stats.

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature-based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501 (c) (3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.

- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.
- Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
- Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
- Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
- Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
- Makes minor revisions to the state trails program to improve grant administration.
- Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor revisions to improve administration of the state property development grant program.
- Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.
- Clarifies and streamlines the administration of local assistance grants to governmental units.
- Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit conservation organizations. Implements statutory changes that require that all grants issued under these programs be for nature-based outdoor recreation. Lists eligible nature-based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.
- Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.
- Makes minor revisions to improve administration of the Heritage state park and forest trust program.

Publication Date: September 1, 2000

Effective Date: September 1, 2000

Expiration Date: See section 9136 (10g), 1999 Wis. Act 9

Hearing Dates: November 1 & 2, 2000

2. Rules adopted revising **ch. NR 47**, relating to the federal cost sharing program to suppress gypsy moths.

Finding of emergency

An emergency rule is necessary in order to make the cost shared gypsy moth suppression program available for aerial treatments in May 2001. Given the survival of caterpillars this summer, the department expects that populations of gypsy moth will be high enough in some localities in 2001 to necessitate suppression to protect tree health. In order to offer participation in the aerial treatment project and cost sharing from the U.S. Forest Service, it is necessary that preparatory work be done this fall and winter to define treatment blocks. When gypsy moth outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the

landowner and others when pesticides are not used according to directions. The Department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

Publication Date: November 10, 2000
Effective Date: November 10, 2000
Expiration Date: April 9, 2001
Hearing Date: January 17, 2001
Extension Through: August 6, 2001

Natural Resources

(Environmental Protection – Investigation and Remediation, Chs. NR 700—)

Rules adopted creating **ch. NR 754** relating to environmental insurance requirements for liability exemptions for voluntary remediation.

Exemption from finding of emergency

This rule is being promulgated as an emergency rule because 1999 Wis. Act 9 (Section 9136 (3)) required the adoption of this rule as an emergency rule (following the procedures in s. 227.24, Stats.). 1999 Wis. Act 9 stated that the department is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety or welfare and without having to provide a finding of emergency.

Analysis prepared by the Dept. of Natural Resources

Statutory authority: ss. 227.11 (2) and 227.24, Stats.

Statute interpreted: s. 292.15, Stats.

Section 292.15 (2) (ae) 3m., Stats., directs the department to promulgate rules to describe the requirements that must be met by a voluntary party seeking a Certificate of Completion, where natural attenuation is employed as the remedial action. The 1999–2001 State Budget (1999 Wisconsin Act 9) created s. 292.15 (2) (ae), Stats., which allows parties to use natural attenuation as a remedy to obtain the voluntary party liability exemption. This section includes a provision where the DNR may require a voluntary party to obtain environmental insurance if the voluntary party wants to receive a Certificate of Completion before the groundwater enforcement standards are met through natural attenuation. This rule requires that all voluntary parties who apply for the liability exemption under this section obtain environmental insurance to cover the cost to cleanup the environment if natural attenuation fails.

Publication Date: March 6, 2001
Effective Date: March 6, 2001
Expiration Date: August 3, 2001
Hearing Date: April 16, 2001

Public Service Commission (3)

1. Rules adopted creating **s. PSC 2.06**, relating to procedures for the confidential treatment of records.

Exemption from finding of emergency

At the direction of the Joint Committee for Review of Administrative Rules under s. 227.26 (2) (b), Stats., the Commission adopts a rule to create s. PSC 2.06, Wis. Adm. Code, relating to procedures for the confidential treatment of records.

Analysis by the Public Service Commission

Statutory authority: ss. 196.02 (1) and (3), 227.11, 227.24 and 227.26, Stats.

Statutes interpreted: ss. 196.14, 196.72 and 196.795 (9), Stats.

On August 15, 2000, the Commission voted to promulgate administrative rules on requests for confidential handling of documents filed with the Commission. On September 20, 2000, the Joint Committee for Review of Administrative Rules directed the Commission to adopt a rule on the subject under s. 227.26 (2) (b), Stats. This rule creates a process for obtaining a designation of confidential status. Under the rule, a determination on whether information shall be treated confidentially shall be made at the time the information is given to the Commission. Under previous Commission procedures, if a person filing a document sought confidential treatment of information in the document, the filer could do so by identifying the grounds under which confidentiality could be granted. The Commission would accept the filing, but the acceptance did not constitute a determination that public access to the information would not be permitted. The Commission would determine if confidential status should be granted when a request for that information was made by another person.

Under this rule, a person who wishes the Commission to keep confidential information in the possession of the Commission, or requested by the Commission, must make an application for confidential status. The application must identify the information for which confidential treatment is sought and identify the authority under which confidential status should be granted. Within 21 days after receiving an application, the Commission may seek additional information from the applicant, if needed, to make a confidentiality determination. The applicant must respond within 30 days to the information request.

The Commission will make a determination on a confidentiality request within 30 days of receiving the additional information or within 30 days of the filing of the application if no additional information is needed. The determination will specify what, if any, information is given confidential treatment and the basis for that determination.

The Commission will give the applicant written notice of its determination. The Commission shall post all determinations regarding confidentiality on its website and may give other appropriate notice. If an applicant is authorized to file information confidentially in the context of a Commission proceeding, the applicant shall serve a copy of the determination on all persons listed on the service list for that proceeding.

Publication Date: October 23, 2000
Effective Date: October 23, 2000
Expiration Date: March 22, 2001
Extension Through: July 19, 2001

2. Rules adopted creating **ch. PSC 118**, relating to the use of renewable resource credits.

Exemption from finding of emergency

1999 Wis. Act 9, section 9141 (2zt) (a) allows the Commission to promulgate an emergency rule creating an RRC trading program without making a finding of emergency.

Analysis prepared by the Public Service Commission

Statutory authority: ss. 196.02 (3), 196.378 (3), and 227.11, Stats.

Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. The minimum percentage gradually increases as follows:

Year 2001: 0.5 percent of total retail electric sales.

Year 2003: 0.85 percent of total retail electric sales.

Year 2005: 1.2 percent of total retail electric sales.

Year 2007: 1.55 percent of total retail electric sales.

Year 2009: 1.9 percent of total retail electric sales.

Year 2011: 2.2 percent of total retail electric sales.

In lieu of providing renewable energy to its customers, an electric provider can purchase a renewable resource credit. Under s. 196.378 (3) (a), Stats., the Commission must “promulgate rules that establish requirements for the use of a renewable resource credit, including the amount of a renewable resource credit.” This rule addresses the requirements and procedures for the use of renewable resource credits, during the interim period before the date when an identical permanent rule takes effect.

This rule establishes a renewable resource credits trading program and describes the minimum criteria for renewable facilities to be eligible for creation of credits in the trading program. The rule also describes the duties of a program administrator, who supervises and implements the trading program. The program administrator is required to create a trading account for participating electric providers and to award renewable resource credits to the account of an electric provider of energy, from a certified renewable facility, that exceeds its minimum requirement. The program administrator must retire renewable resource credits upon their use to satisfy an electric provider’s minimum renewable

energy requirement.

Publication Date: April 7, 2001

Effective Date: April 7, 2001

Expiration Date: September 4, 2001

3. Rules adopted amending s. PSC 116.03 (4) and creating s. PSC 116.04 (6) relating to the definition of fuel and permissible fuel costs.

Finding of emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of “fuel” in s. PSC 116.03 (4) and creating s. PSC 116.04 (6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2001 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192 (2) (a), Stats.

Publication Date: May 19, 2001

Effective Date: May 19, 2001

Expiration Date: October 16, 2001

Hearing Date: June 26, 2001

[See notice this Register]

Scope statements

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

Subject

Current rules require a land surveyor applicant applying with a degree in civil engineering of not less than four years duration from a college or university, to have only 12 credits in courses concentrating on land surveyor education.

Objective of the Rule. To require candidates who received a bachelor's degree in civil engineering of not less than four years duration from a college or university acceptable to the Land Surveyor Section to have at least 24 credits in courses concentrating on the legal principles of land surveying and the technical aspects of land surveying.

Policy Analysis

The proposed rule would revise s. A-E 6.04 (2) (b) to require a candidate to complete core land surveying courses the Land Surveyor Section deems necessary as the minimal competency educational standard for the protection of the health, safety and welfare of the citizenry of Wisconsin.

Statutory Authority

Sections 15.08 (5) (b) and 227.11 (2)

Staff Time Required

100 hours

Employment Relations

Subject

Career executive program definition, and minor and technical rule changes.

Objective of the Rule. The rule will clarify that the career executive program includes positions assigned to a broadband pay structure with pay band definitions that no longer coincide with the language contained in the Administrative Code. These positions are covered by Section J of the state's compensation plan, as approved by the Joint Committee on Employment Relations. The ER rules modification should coincide with ER-MRS rules revisions necessary to clarify position transactions for this nonrepresented group of employees. Minor technical changes will also be made as necessary in the rules.

Policy Analysis

Section 230.24, Stats., describes the intent of the career executive program and authorizes the DER Secretary to provide policies and standards for classification and salary administration separate from procedures established for other employment. No changes to the statutes are necessary.

Significant expansion of the broadband flexible pay structure in accordance with the Compensation Plan now make necessary changes to ch. ER 30 (Career Executive Employment) to complement those provisions.

Section ER 30.02 provides that the DER Secretary shall determine the positions to be included in the career executive program, provided that the positions are predominantly administrative in nature and are allocated to a classification assigned to pay range 18 or above of pay schedule 01 or a

counterpart pay range. The references to pay ranges in s. ER 30.02 are obsolete.

Section ER 30.065 also describes obsolete pay provisions.

Section ER 30.09 references pay adjustments superseded by the Compensation Plan, Section J.

The Department also intends to make minor technical changes to other provisions of the rules as necessary.

Statutory Authority

Section 230.24, Stats., authorizes the Secretary of DER to establish a career executive program emphasizing excellence in administrative skills in order to provide agencies with a pool of highly qualified executive candidates, to provide outstanding administrative employees a broad opportunity for career advancement and to provide for the mobility of such employees among the agencies and units of state government for the most advantageous use of their managerial and administrative skills.

Staff Time Required

Estimated time to be spent by state employees—60 hours. No other resources are necessary.

Employment Relations—Merit Recruitment and Selection

Subject

Changes to ER-MRS rules governing career executive register establishment and certification, layoff, permissive three-month trial period upon movement between agencies, reinstatement, opt in/opt out provisions, and minor and technical rule changes.

Objective of the Rule. These rule changes will make career executive register establishment and certification consistent with s. 230.25, Stats., enacted in July 1998, which created flexible certification.

The rule change will also make career executive layoff rules consistent with ch. ER-MRS 22, the rules for state civil service employees in general. This will again simplify and eliminate needless conflicts and complexity.

Other changes will make permissive probationary periods consistent with the rules for other civil service groups.

The rule change will remove the five-year limitation for career executive employee reinstatement.

The rule change will eliminate the option of an incumbent to a position which is placed in the career executive program to elect out of the program.

Minor technical changes will also be made as necessary in the rules.

Policy Analysis

Sections ER-MRS 30.03 and 30.05 govern career executive register establishment and certification. Currently, no more than the 10 highest-ranking candidates on an internal register and up to the 10 highest-ranking candidates on an external register can be provided to hiring managers for interview even though an agency might wish to interview more candidates. In addition, there is no provision for Veteran's Preference in the current career executive rules.

Section ER-MRS 30.105 (2) requires an appointing authority to treat all career executive employees in the agency

or employing unit as a single group for layoff purposes. This rule was adopted when there were relatively few career executive incumbents. The state's new broadband compensation system increased the number of career executives to about 1600 working in many different job groups. The diverse functional areas for which they are responsible require layoff procedures for career executives to conform to ch. ER-MRS 22 which requires layoffs by job title or series.

Section ER-MRS 30.06 (3) allows the appointing authority in the receiving agency to place a career executive employee on a three-month trial period after transfer between agencies. The trial period should be increased to six months to be consistent with the permissive probation period for transfers of other civil service employees between agencies.

The Administrator will amend s. ER-MRS 30.11 (1) to change career executive employees reinstatement eligibility from the current five-year limitation to an unlimited time.

Currently an incumbent of a position which is placed in the career executive program has may or may not opt in to the program. The Administrator will eliminate the option. Incumbents of positions which are placed in the career executive program will become career executives.

The Administrator also intends to make minor technical changes to other provisions of the rules as necessary.

Statutory Authority

Section 230.24 (1), Stats., provides that the Administrator may develop and issue policies and standards for career executive recruitment, examination, probation, employment register control, certification, transfer, promotion, and reemployment.

Section 230.05 (5), Stats., grants the Administrator of the Division of Merit Recruitment and Selection general authority to promulgate rules on provisions for which the administrator has statutory responsibility.

Staff Time Required

Estimate time to be spent by state employees: 100 hours. No other resources are necessary.

Financial Institutions—Securities

Subject

Wisconsin Securities Law registration exemption rules involving capital formation by businesses.

Objective of the Rule. This series of rules is being promulgated both to make revisions to two existing Wisconsin Securities Law registration exemptions, and to create a new registration exemption, for use by securities issuers, including businesses, to raise investment capital from Wisconsin investors.

Policy Analysis

Existing and new policies contained in the proposed rules include:

1. Increase to \$5 million (from the current \$1 million) the maximum offering amount that can be raised from investors under the existing Wisconsin-Issuer-Registration-Exemption-by-Filing provision in s. DFI-Sec 2.028 (4).

2. Expand the definition of "venture capital company" under the so-called "institutional investor" rules in s. DFI-Sec 2.02 (4) (a) 3. b. to include a limited liability company.

3. Create a new transactional registration exemption rule in s. DFI-Sec 2.02 (9) (n) pursuant to the authority under s.

551.23 (18), Stats., based upon the Model Accredited Investor Exemption developed by the North American Securities Administrators Association ("NASAA") that was adopted on April 27, 1997 by vote of the NASAA membership, including Wisconsin.

Statutory Authority

Sections 551.63 (1) and (2), 551.23 (8) (f), and 551.23 (18)

Staff Time Required

Estimated time to be spent by state employees to develop the rules—16 hours. No other resources are necessary.

Higher Educational Aids Board

Subject

Creation of ch. HEA 13 relating to administration of teacher education loan program.

Objective of the Rule. Mandated by 1989 Wis. Act 31 and required for proper administration of program.

Policy Analysis

The 1997 Wisconsin Act 27 created s. 39.395 provides for loans to Wisconsin residents enrolled in the teacher education programs at the Milwaukee Teacher Education Center (MTEC). The Wisconsin Higher Educational Aids Board (HEAB) administers this program under s. 39.395. The student who receives the award must agree to teach in the Wisconsin school district operating under Chapter 119 of the Wisconsin State Statutes, First Class City School System. For each year the student teaches in an eligible school district, 50% of the loan is forgiven. If the student does not teach in an eligible district, the loan must be repaid at an interest rate of 5%. There will be provisions for a maximum award amount, an application process, loan forgiveness, terms of repayment, and deferment of loan repayment for borrowers.

Statutory Authority

Section 39.395

Staff Time Required

Estimated hours of staff time – 30 hours

Higher Educational Aids Board

Subject

Creation of ch. HEA 14 relating to administration of teacher of the visually impaired loan program.

Objective of the Rule. Mandated by 1989 Wis. Act 31 and required for proper administration of program.

Policy Analysis

The 1999 Wisconsin Act 629 created s. 20.005, provides for loans to Wisconsin residents enrolled at least part-time at an in-state or eligible out-of-state institution in a program that prepares the them to licensed as teachers of the visually impaired or as orientation and mobility instructors. The Wisconsin Higher Education Aids Board (HEAB) administers this program under s. 20.005. The statute sets a maximum award of \$10,000 per year with an overall maximum of \$40,000. The student who receives the award must agree to be a licensed teacher of the visually impaired or an orientation and mobility instructor in a Wisconsin school district, the Wisconsin Center for the Blind and Visually Impaired or a cooperative service agency. For each of the first 2 year the student teaches and meets the eligibility criteria, 25% of the loan is forgiven. For the third year, 50% is forgiven. If the student does not teach and/or does not meet the eligibility criteria, the loan must be repaid at an interest rate of 5%. There will be provisions for an application process, loan

forgiveness, terms of repayment and deferment of loan repayment for borrowers.

Statutory Authority

Section 20.005

Staff Time Required

Estimated hours of staff time – 30 hours

Law Enforcement Standards Board

Subject

Section LES 2.02 (7) (b) relating to release of records pertaining to pre-employment drug tests for law enforcement, tribal law enforcement, jail and secure detention officers.

Objective of the Rule. The objective of intended rule making is to amend rules to authorize the release of pre-employment drug test results to current employers of law enforcement, tribal law enforcement, jail and secure detention officers.

Policy Analysis

Current rules of the Law Enforcement Standards Board authorize release of pre-employment drug test results to the Board; to a prospective employing agency; to the applicant; by lawful order or a court; or, when the applicant provides written permission for release of results.

Omitted from current rules is release of pre-employment drug test results to a current law enforcement, tribal law enforcement, jail or secure detention employer.

Statutory Authority

Section 165.85 (3) (b)

Staff Time Required

An Administrative Officer and a Program Assistant will require no more than 120 combined hours to develop and to promulgate the proposed rule.

Law Enforcement Standards Board

Subject

Chapter LES 3 relating to basic training of law enforcement officers.

Objective of the Rule. The Law Enforcement Standards Board is authorized by s. 165.85 (3) (b) Wis. Stats. to establish minimum basic training standards for law enforcement officers.

It believes from results of strategic planning and from other evaluations of requirements for basic training that the current 400-hour standard needs to be improved.

The Board proposes to amend its rules to improve the responsiveness and instructional effectiveness of law enforcement basic training.

Policy Analysis

The current 400-hour basic training curriculum was established in 1990. It is apparent to the Board, from advice it receives from law enforcement administrators, officers, instructors and training coordinators that the curriculum is not responsive to modern law enforcement trends and improvements in instructional concepts and technology.

The Board proposes to evaluate recommendations it receives from its curriculum advisory committee under guidelines established by s. 165.85 (3)(d) Wis. Stats. to assure the effectiveness of basic training.

Statutory Authority

Section 165.85 (3) (b)

Staff Time Required

480 hours of state employee time plus the time provided by the 13 members of the curriculum advisory committee to the Law Enforcement Standards Board. The advisory committee will meet on at least 5 occasions to form a recommendation to the Board and to attend meetings of the Board. The advisory committee consists of 6 Sheriffs, 6 Chiefs of Police and the Director of Training at the Wisconsin State Patrol Academy.

Law Enforcement Standards Board

Subject

Chapter LES 2 relating to pre-employment drug testing of law enforcement, jail and secure detention officers.

Description of objective(s): The Law Enforcement Standards Board requires applicants for employment as law enforcement, jail or secure detention officers to submit to pre-employment drug testing. Under s. LES 1.03 (4), Wis. Adm. Code, laboratories that conduct urine analyses must be approved by the United States Department of Health and Human Services (USDHHS).

The Board proposes to evaluate alternative drug testing procedures to determine if the expense of tests can be reduced and timeliness of tests can be improved.

Policy Analysis

The Board is aware of drug tests approved by the United States Food and Drug Administration that, when compared with tests approved by the USDHHS, are less expensive and can be administered with less procedural difficulty.

It proposes to evaluate alternatives to the USDHHS approved tests to determine if the expense and procedures of drug testing can be improved while maintaining current standards for detecting drug abuse.

Statutory Authority

Section 165.85 (4) (c)

Staff Time Required

240 hours

Law Enforcement Standards Board

Subject

Chapter LES 6 relating to decertification of law enforcement, jail or secure detention officers.

Description of objective(s): The Law Enforcement Standards Board is authorized by s. 165.85 (3) (cm) Wis. Stats. to decertify law enforcement, jail and secure detention officers "...who violate or fail to comply with a rule or order of the board relating to curriculum or training...." The Board follows decertification procedures established by s. LES 6.03, Wis. Adm. Code.

The Board proposes to amend its rules to improve the timeliness and responsiveness of decertification procedures.

Policy Analysis

The Board has accumulated three years of experience in employing decertification procedures under s. LES 6.03. It has found those procedures to be cumbersome, as they occur within its quarterly meeting schedule.

It proposes to evaluate alternatives, such as employment of hearing examiners, to improve its current, prolonged procedures.

Statutory Authority

Section 165.85 (3) (a)

Staff Time Required

120 hours

Law Enforcement Standards Board

Subject

Chapter LES 6 relating to decertification of law enforcement, jail or secure detention officers.

Description of objective(s): The Law Enforcement Standards Board is authorized by s. 165.85(3)(cm) Wis. Stats. to decertify law enforcement, jail and secure detention officers "...who violate or fail to comply with a rule or order of the board relating to curriculum or training..." The Board follows decertification procedures established by s. LES 6.03 Wis. Adm. Code.

The Board proposes to amend its rules to clarify the consequence of decertification of an officer.

Policy Analysis

Current decertification rules create an opportunity for a decertified officer to be re-employed as an officer immediately following decertification. Decertified officers who are re-employed must meet employment and training standards determined by the Board.

The Board proposes to amend its rules to create a mandatory waiting period for re-employment of decertified officers.

Statutory Authority

Section 165.85 (3) (a) and (cm)

Staff Time Required

120 hours

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

Subject

To modify the rule regarding temporary certificates for social workers, s. SFC 3.13, to conform to a new procedure for computerized examination.

Objective of the Rule. Under current law, a social worker temporary certificate expires "9 months from date of issue of the temporary certificate, or release of the examination scores from the next available examination after the date of the application for the temporary certificate, whichever is earlier." Until recently, examinations were offered only a few times per year. Computerized examinations will soon be offered at any time. Under the current language, the maximum duration of a temporary certificate would be reduced to a few days, and the language must be changed to effect the purpose of the rule.

Policy Analysis

Changes due to improved technology, i.e., computerized testing, will vitiate the purpose of the existing rule regarding temporary certificates unless that rule is also changed to reflect the different testing technology.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1)

Staff Time Required

80 hours

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

Subject

To specify a minimum number of hours to be required in an internship performed by a holder of a Social Worker Training Certificate.

Objective of the Rule. Holders of social worker training certificates must complete either a human services internship or one year of supervised social work experience. Current law specifies no minimum duration for an internship. To assure the purposes of a training certificate are met, a minimum number of hours needs to be specified for internships.

Policy Analysis

Specifying a minimum number of hours for a human services internship will help to protect the public by ensuring that holders of social worker training certificates, who by definition are seeking to enter the social work profession without an adequate background, supplement their education and experience.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1)

Staff Time Required

80 hours

Transportation

Subject

Chapter Trans 195 establishes the Department of Transportation's administrative interpretation of several statutory provisions relating to fees and procedures for searching, verifying and certifying documentation contained in the records of the Division of Motor Vehicles. This rulemaking will amend ch. Trans 195 to (1) remove any references to fees for driver records, while such fees for driver records shall continue to be set forth in the statutes; and (2) increase the fees for the search, verification and certification of (a) motor vehicle title and registration records and (b) other Division of Motor Vehicle records, excluding driver records.

Policy Analysis

The current fees for search, verification and certification of driver records, motor vehicle title and registration records, and other Division of Motor Vehicle records set forth in ch. Trans 195 to \$3.00. This rule making will remove any references to fees for driver records, and shall increase the fees for the search, verification and certification of motor vehicle title and registration records and other Division of Motor Vehicle records to \$5.00.

Statutory Authority

Section 227.11

Staff Time Required

20 hours.

Transportation

Subject

This rule will amend ch. Trans 205, relating to county trunk highway standards, to eliminate obsolete references to ch. Trans 76 in ss. Trans 205.02 (5) and 205.03.

Policy Analysis

The rulemaking will clarify that functional classification maps maintained by the Department control which engineering design criteria apply to particular highways.

Statutory Authority

Sections 84.01 (5), (9), (15) and (23), 86.14 (1) and 83.42 (1), Stats.

Staff Time Required

2 hours.

Workforce Development**Subject**

Objective of the Rule. The objective of the rule is to specify a procedure by which the department will distribute federal and state child support incentive payments to counties.

Policy Analysis

The department will establish measures of agency performance, and county child support agencies will earn incentive payments based on individual agency performance

under each measure. The performance measures will include paternity establishment percentage, support order establishment rate, collections on current child support, collections on arrears, and cost effectiveness. These performance measures are based on measures the federal Office of Child Support Enforcement uses in distributing incentive payments to states. The rule will allow child support agencies to earn the maximum available payment for each measure by performing either above a determined level or achieving incremental improvement above the preceding year's performance level. The incentive payments may be used only to fund costs under the counties' child support programs.

The department will consult with representatives of county child support agencies to develop this rule.

Statutory Authority

Sections 49.24 and 227.11

Staff Time Required

150 hours

Submittal of rules to legislative council clearinghouse

Please check the Bulletin of Proceedings for further information on a particular rule.

Commerce

Rule Submittal Date

On May 23, 2001, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Comm 32, relating to public employee safety and health.

Agency Procedure for Promulgation

Hearings will be held July 24 and 25, 2001.

Contact Information

The Safety and Buildings Division of the Department of Commerce is the agency unit responsible for the rule promulgation.

If you have questions, please contact:

Ronald Acker
Telephone: (608) 267-7907

Funeral Directors Examining Board

Rule Submittal Date

On May 23, 2001, the Funeral Directors Examining Board submitted proposed rules to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2)

The proposed rule-making order relates to apprenticeship credit and continuing education.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 17, 2001, at 10:30 a.m. in Room 180, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:

Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Health and Family Services

Rule Submittal Date

On May 16, 2001, the Department of Health and Family Services submitted proposed rules to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: Sections 227.24 (1), 250.04 (7), 250.041, 254.115, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2), and 254.179

NOTE: These rules were previously submitted for Clearinghouse review on December 9, 2000. The

Department is submitting them to the Clearinghouse again because the Department did not comply with the s. 227.115 (2), Stats., requirement for a DOA report on the effect of ch. HFS 163 on housing prior to its initial submission to the Clearinghouse. During the intervening five months, the Department received many public comments on the proposed rules in addition to those provided by the Clearinghouse in January and, most recently, the DOA. Consequently, the Department is submitting two versions of the current proposed rulemaking order. One version shows how provisions have changed from the rulemaking order the Department originally transmitted to the Clearinghouse. The second version is a clean copy of the first version.

The Department of Administration report required under s. 227.115, Stats., is included in this second submittal to the Clearinghouse.

The Department accepted all suggestions made in the initial Clearinghouse report comments except for 1.b., 5.c. and 5.w. (4), and will respond to those in its report to the legislative standing committees.

Agency Procedure for Promulgation

Five public hearings under ss. 227.16, 227.17 and 227.18, Stats., were held in January, 2001. Following receipt of Clearinghouse comments, the Department Secretary will approve the rules in final draft form; and the Department will submit them to legislative standing committees for review under s. 227.19, Stats.

Contact Information

If you have questions, please contact:

Gail Boushon, Asbestos and Lead Section
Division of Public Health
Telephone (608) 267-2289

Natural Resources

Rule Submittal Date

On May 10, 2001, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 166, relating to the safe drinking water loan program.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 12, 2001.

Contact Information

If you have questions, please contact:

Dan Olson
Bureau of Community Financial Assistance
Telephone (608) 264-6288

Natural Resources**Rule Submittal Date**

On May 10, 2001, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 326, relating to the regulation of swim rafts and the definition of "impoundment" and "similar conveyance".

Agency Procedure for Promulgation

A public hearing is required and will be held in July, 2001.

Contact Information

If you have questions, please contact:
Dan Helsel
Bureau of Fisheries Management/Habitat
Protection

Natural Resources**Rule Submittal Date**

On May 10, 2001, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 410, relating to asbestos inspection fees.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 26, 2001.

Contact Information

If you have questions, please contact:
Joe Brehm
Bureau of Air Management
Telephone: (608) 267-7541

Optometry Examining Board**Rule Submittal Date**

On May 22, 2001, the Optometry Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 449.08

The proposed rule-making order relates to contact lens prescription release by optometrists.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 13, 2001, at 10:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board**Rule Submittal Date**

On May 22, 2001, the Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1)

The proposed rule-making order relates to course descriptions for students applying for social worker training certificates.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 12, 2001, at 9:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board**Rule Submittal Date**

On May 25, 2001, the Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (3)

The proposed rule-making order relates to the state jurisprudence examination.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 12, 2001, at 9:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Transportation**Rule Submittal Date**

On June 4, 2001, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing will be held June 29, 2001.

Contact Information

The Division of Transportation Infrastructure Development, Bureau of Highway Operations is the organizational unit responsible for promulgation of the proposed rule.

Veterinary Examining Board**Rule Submittal Date**

On May 22, 2001, the Veterinary Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1)

The proposed rule-making order relates to the definition of unprofessional conduct of the practice of veterinary medicine.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 25, 2001, at 11:30 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 01-57]

(reprinted from 5/31/01 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings, at the times and places indicated below, on proposed amendments to ch. ATCP 81, Wis. Adm. Code, relating to cheese grading, packaging and labeling. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open **until June 29, 2001**, for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911, or by calling 608-224-4700. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by June 7, 2001 either by writing to Debbie Mazanec, Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911, (608-224-4712), or by contacting the message relay system (TTY) at 608-224-5058. Handicap access is available at the hearing locations.

Hearing Dates, Times And Locations

Date and Time: **Thursday, June 14, 2001**

10:00 a.m. – 12:00 noon

Location: Appleton Public Library

Lower Level Mtg. Room

925 S. Oneida Street

Appleton, WI 54911

Handicapped accessible

Date and Time: **Friday, June 15, 2001**

10:00 a.m. – 12:00 noon

Location: Iowa County Courthouse

County Board Room, 2nd Floor

222 N. Iowa Street

Dodgeville, WI 53533

Handicapped accessible

Analysis Prepared by the Department of Agriculture, Trade, and Consumer Protection

Statutory Authority: ss. 93.07 (1), 97.09 (4) and 97.177 (1) and (4), Stats.

Statute Interpreted: s. 97.177, Stats.

The department of agriculture, trade and consumer protection (DATCP) regulates the grading, packaging and labeling of cheese in this state. This rule modifies current rules related to the grading, packaging and labeling of Swiss (also known as emmentaler) cheese. The current rules are contained in ch. ATCP 81, Wis. Adm. Code.

Swiss Cheese Grading Terms

Under current rules, a cheese grader evaluates Swiss cheese based on eye, texture and other cheese characteristics. The current rule spells out grade standards for eye and texture characteristics in table format, using customary (but undefined) industry terms to identify various physical traits. This rule defines those terms, consistent with industry custom.

Swiss Cheese Grading Procedure

Under current rules, a grader must grade cheese by withdrawing and evaluating sample “plugs” of cheese using an implement known as a “trier.” This rule spells out a slightly different procedure for Swiss cheese. Under this rule:

- A cheese grader must determine Swiss cheese *flavor* and *body* characteristics by withdrawing and evaluating “plugs” of cheese. This rule spells out the procedure for withdrawing and evaluating Swiss cheese “plugs” using a trier.
- A grader must normally determine *texture*, *color* and *eye* characteristics by dividing a wheel or block of cheese in half and examining the exposed cut surfaces. If Swiss cheese has been already been cut into smaller pieces, the grader may examine the cut surfaces without making additional cuts. A grader may evaluate “plugs” of cheese, rather than cut pieces, if the cheese owner requests that procedure.

Wisconsin Grade Standards; Eye and Texture Characteristics

This rule changes current grade standards for Wisconsin grade A and Wisconsin state brand Swiss cheese. Under current rules, eyes must be uniformly distributed and a majority of the eyes must be $\frac{9}{16}$ to $\frac{13}{16}$ inch in diameter. Under this rule, eyes must be uniformly distributed and relatively uniform in size. A majority of the eyes must be $\frac{3}{8}$ to $\frac{13}{16}$ inch in diameter.

This rule establishes an eye size requirement for Wisconsin grade B Swiss cheese that is identical to that for Wisconsin grade A Swiss cheese. Under this rule, the majority of eyes must be $\frac{3}{8}$ to $\frac{13}{16}$ inch in diameter.

Fiscal Estimate

Rules related to cheese grading, packaging and labeling are contained in Chapter ATCP 81, Wis. Adm. Code. Subchapter VII specifies the Wisconsin grade standards for Swiss or Emmentaler cheese. These standards include requirements for particular eye and texture characteristics of the cheese, including eye size. Current standards require that the majority of eyes (or holes) be $\frac{9}{16}$ to $\frac{13}{16}$ inch in diameter in order for the cheese to be labeled or sold as Wisconsin’s grade A or state brand Swiss (emmentaler) cheese.

This rule updates the Wisconsin grade standard for Swiss (emmentaler) cheese so that the Wisconsin cheese industry may embrace new cheese manufacturing and packaging technology and meet customer expectations. This rule update will permit smaller eyes in Swiss or emmentaler cheese than the current standard allows by expanding the lower end of the range. This change will facilitate cutting operations with high-speed slicing equipment and help provide a more consistent quantity by weight of cheese in consumer packages. This rule change will also bring the Wisconsin grade standards into conformance with United States

Department of Agriculture grade standards for Swiss cheese with regard to eye size, and allow the Wisconsin cheese industry to remain competitive on a nationwide basis.

This rule also defines current and new terms in Subchapter I to help clarify grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. In Subchapter II, cheese grading procedures are modified to allow for better examination of eye and texture characteristics and evaluation of the cheese with respect to the proposed changes in the grade standard.

Currently, there are three multiple product graders employed by the department. No additional staff will be required to enforce these regulations. These amendments will not impose added costs on local government.

One-time costs of approximately \$3640 will be incurred by the department for rule development.

Long-Range Fiscal Implications

None anticipated.

Initial Regulatory Flexibility Analysis

This proposed rule modifies current rules under ch. ATCP 81, Wis. Adm. Code, related to cheese grading, packaging and labeling.

Under current DATCP rules, the majority of eyes or holes in Swiss (emmentaler) cheese must be $\frac{9}{16}$ to $\frac{13}{16}$ inch in diameter in order for the cheese to be labeled or sold as Wisconsin grade A or Wisconsin state brand. There are no eye size specifications in the current standards for Wisconsin grade B Swiss (emmentaler) cheese.

The proposed rule brings the Wisconsin grade standards for Swiss (emmentaler) cheese into conformance with recent changes in the federal grade standards adopted by the United States Department of Agriculture. The proposed rule allows smaller eyes by expanding the lower end of the eye size range and requires that the majority of eyes be $\frac{3}{8}$ to $\frac{13}{16}$ inch in diameter for Wisconsin grade A (Wisconsin state brand). It also requires the eyes to be relatively uniform in size and uniformly distributed. The proposed rule also establishes the same eye size range of $\frac{3}{8}$ to $\frac{13}{16}$ inch in diameter for Wisconsin grade B.

The proposed rule defines current and new terms to help clarify the grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. The proposed rule also modifies grading procedures for Swiss cheese to allow for better examination and evaluation of texture, color, and eye characteristics. For the determination of texture, color, and eye characteristics, the cheese must be divided approximately in half to expose two cut surfaces for examination. Upon request of the owner of the cheese (or the owner's authorized representative), cheese samples for grading purposes may be obtained with the use of a trier in lieu of dividing the cheese in half.

This rule update in the Wisconsin grade standard for Swiss (emmentaler) cheese is necessary to keep pace with changes in manufacturing and packaging technology and meet a variety of customer and consumer preferences. Packers and cut/wrap operations prefer smaller eyes that facilitate cutting operations with high-speed slicing equipment. Smaller eyes also enable the cutter to better control package weight and minimize trim. Delicatessen operators prefer a larger eye size due to customer preference at the retail level. It is believed that cheese manufacturers currently producing Swiss cheese with an eye size range of $\frac{9}{16}$ to $\frac{13}{16}$ inch in diameter will maintain or grow their market niche.

The proposed rule will not impose any direct costs on small businesses. These rule changes do not require any additional reporting or recordkeeping. No additional knowledge or professional skills are needed to meet the requirements of these proposed amendments.

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 01-58]

(reprinted from 5/31/01 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings, at the times and places indicated below, on its emergency rule and a proposed permanent rule to amend Chapter ATCP 80, Wisconsin Administrative Code, relating to pathogen tests on ready-to-eat dairy products. The public is invited to attend the hearings and make comments on the the emergency rule and proposed permanent rule. Following the public hearings, the hearing record will remain open until June 29, 2001, for additional written comments.

A copy of the emergency and proposed permanent rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911, or by calling 608-224-4700. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by June 7, 2001 either by writing to Debbie Mazanec, Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911, (608-224-4712), or by contacting the message relay system (TTY) at 608-224-5058. Handicap access is available at the hearing locations.

Hearing Dates, Times And Locations

Date and Time: Thursday, June 14, 2001

10:00 a.m. – 12:00 noon

Location: Appleton Public Library
Lower Level Mtg. Room
925 S. Oneida Street
Appleton, WI 54911
Handicapped accessible

Date and Time: Friday, June 15, 2001

10:00 a.m. – 12:00 noon

Location: Iowa County Courthouse
County Board Room, 2nd Floor
222 N. Iowa Street
Dodgeville, WI 53533
Handicapped accessible

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07 (1), 97.09 (4) and 97.20 (4), Stats.

Statutes interpreted: ss. 97.09 (4) and 97.20 (4), Stats.

The Department of Agriculture, Trade and Consumer Protection (DATCP) licenses and inspects dairy plants under s. 97.20, Stats. Current DATCP rules under s. ATCP 80.56 (4), Wis. Adm. Code, require dairy plant operators to report to DATCP the results of any microbiological test that confirms the presence of a pathogenic organism in a pasteurized or ready-to-eat dairy product. The current reporting requirement discourages pathogen testing, because

test reports become public records that may be open to public inspection even if the affected products are withheld from sale.

This emergency and proposed permanent rule repeals this counterproductive reporting requirement, and creates alternative rules that will provide better public health protection and encourage more pathogen testing. Under this rule:

- A dairy plant operator may not sell or distribute any ready-to-eat dairy product in which a microbiological test has confirmed the presence of a pathogenic organism or toxin.

- A dairy plant operator must report test results that confirm the presence of pathogens or toxins in ready-to-eat dairy products unless all the following apply:

- * The tested product bears a product code or production lot number.

- * The operator withholds, from sale or distribution, all ready-to-eat products that bear that product code or production lot number.

Under current rules, a dairy plant operator must keep records of all pathogen and toxin test results. This requirement will continue. DATCP may inspect and copy test records as necessary.

Fiscal Estimate

The Department of Agriculture, Trade and Consumer Protection ("department") licenses and inspects dairy plants under Wis. Stats. ss 97.20. Under s. 80.56 (4), Wis. Admin. Code, the department requires the dairy plant operator to report to the department results of any microbiological test conducted on a pasteurized or ready-to-eat dairy product that confirms the presence of pathogenic organisms in that product. The current reporting requirement discourages pathogen testing, because test reports become public records that may be open to public inspection even if the affected products are withheld from sale.

The emergency rule and proposed permanent rule repeals this counterproductive reporting requirement, and creates alternative rules that will provide better public health protection and encourage more pathogen testing.

The emergency rule and proposed permanent rule has no anticipated fiscal impact on the department.

Initial Regulatory Flexibility Analysis

The Department of Agriculture, Trade and Consumer Protection (DATCP) licenses and inspects dairy plants under s. 97.20, Stats. Current DATCP rules under s. ATCP 80.56(4), Wis. Adm. Code, require dairy plant operators to report to DATCP the results of any microbiological test that confirms the presence of a pathogenic organism in a pasteurized or ready-to-eat dairy product. The current reporting requirement discourages pathogen testing, because test reports become public records that may be open to public inspection even if the affected products are withheld from sale.

The proposed rule repeals this counterproductive reporting requirement, and creates alternative rules that will provide better public health protection and encourage more pathogen testing.

The proposed changes are already in effect under an emergency rule which the department adopted. This rule will make the temporary rule changes permanent. Under this rule:

- A dairy plant operator may not sell or distribute any ready-to-eat dairy product in which a microbiological test has confirmed the presence of a pathogenic organism or toxin.

- A dairy plant operator must report test results that confirm the presence of pathogens or toxins in ready-to-eat dairy products unless all the following apply:

- * The tested product bears a product code or production lot number.

- * The operator withholds, from sale or distribution, all ready-to-eat products that bear that product code or production lot number.

Under current rules, a dairy plant operator must keep records of all pathogen and toxin test results. This rule requires no additional recordkeeping or other procedures for dairy plants. Small dairy plants will need no additional professional skills or assistance in order to comply with this rule.

This permanent rule will have minimal financial impact on the dairy industry.

Notice of Hearings

Commerce

(Ch. Comm 32, Public Employee Safety and Health)

[CR 01-62]

NOTICE IS HEREBY GIVEN that pursuant to s. 101.055 (3) and (7), Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to public employee safety and health.

The public hearings will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
July 24, 2001 Tuesday 11:00 a.m.	Room 105 Eau Claire State Office Building 718 W. Clairemont Avenue Eau Claire
July 25, 2001 Wednesday 10:00 a.m.	Room 3B Thompson Commerce Center 201 W. Washington Avenue Madison

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **August 8, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 261-6546 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis Prepared by the Department of Commerce

Statutory Authority: s. 101.055 (3) and (7)

Statutes Interpreted: s. 101.055 (3) and (7)

The Department of Commerce is responsible for adopting standards to protect the safety and health of public employees

in the state of Wisconsin. The adopted standards must provide protection at least equivalent to that afforded to private sector employees under standards administered and enforced by the federal Occupational Safety and Health Administration (OSHA).

Chapter Comm 32 currently contains general safety and health standards for all public employees through the incorporation by reference of several OSHA standards. Chapter Comm 32 also contains requirements that add to or modify the OSHA standards.

The proposed rules consist of revisions in chapter Comm 32. In accordance with s. 101.055 (7) (a), Stats., the proposed rules contain a new requirement for public employers to report work-related injuries and illnesses to the Department. Beginning January 1, 2003, the report must be submitted by March 1 of each year. The proposed rules modify the OSHA standards by removing the governmental agency exemption from compliance with the OSHA regulations covering diving operations. The proposed rules also incorporate by reference 3 new OSHA standards relating to needlesticks/bloodborne pathogens, steel erection and recordkeeping.

The proposed rules have been developed with the assistance of the Public Safety Advisory Council. At the time the proposed rules were developed, the members of that citizen advisory council were as follows:

Name	Representing
Sheri Ackley	State Risk Management
Ken Blomberg	Wisconsin Rural Water Association
Jose Bucio	Wisconsin State AFL-CIO
Vance Forrest	Wisconsin Counties Association
David Hanneman	Wisconsin Education Association Council
Ron Kent	American Federation of State, County & Municipal Employees
Dave Kodel	Wisconsin Alliance of Cities
James Kropp	Wisconsin Department of Administration
Ned Paschke	Madison Metropolitan Sewerage District
Thomas Rowe	City of Milwaukee
Richard Stadelman	Wisconsin Towns Association
Ernest Stracener	University of Wisconsin System
Dennis Tweedale	League of Wisconsin Municipalities

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at www.commerce.state.wi.us/SB/SB-HomePage. Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, Email rward@commerce.state.wi.us, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

NOTICE IS HEREBY GIVEN that the Department has considered the environmental impact of the proposed rules. In accordance with ch. Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

The proposed rules will not affect any small businesses as defined in section 227.114 (1)(a), Stats. The proposed rules apply to public sector employers and employees.

Fiscal Estimate

The Safety and Buildings Division currently administers and enforces the provisions of ch. Comm 32 as part of the public sector safety and health program. The proposed rules update the existing administrative rules now being enforced, and the new requirements should not significantly affect costs or revenues. Therefore, the proposed rules will not have any fiscal effect on the Division.

At the local government level, there should be no significant fiscal effect. Some of the new requirements may result in additional costs in time and equipment for some local governments; however, these costs should be minimal.

Notice of Hearing Funeral Directors Examining Board [CR 01-63]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Funeral Directors Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 445.03 (1) (b), 445.095 and 445.10, Stats., the Funeral Directors Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber s. FD 1.07; to amend s. FD 4.03 (5); and to create ss. FD 107 (2), 4.03 (4m) and 4.045, relating to apprenticeship credit and continuing education.

Hearing Date, Time and Location

Date: **July 17, 2001**
Time: 10:30 A.M.
Location: 1400 East Washington Avenue
Room 180
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 1, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2)

Statutes interpreted: ss. 445.03 (1) (b), 445.095 and 445.10

The current rule on apprenticeships does not state that a certain number of embalmings must be performed at various periods during the apprenticeship. In this proposed rule-making order the Funeral Directors Examining Board creates s. FD 1.07 (2) that specifies the number of embalmings that must be performed at various times during an apprenticeship, and the number of embalmings an apprentice must complete at the conclusion of the apprenticeship.

The current rules on continuing education describe the number of continuing education hours that are required in four content areas. It also describes the procedures for approval of continuing education programs. However, it does not list instructor qualifications. In this rule-making order the board amends its rules to better address the contents of continuing education courses and the qualifications of instructors and specifies the number of continuing education hours that may be obtained from the funeral establishment that employs a funeral director. Section FD 5.01 (6) is created to establish criteria for instructor approval.

Text of Rule

SECTION 1. FD 1.07 is renumbered FD 1.07 (1).

SECTION 2. FD 1.07 (2) is created to read:

FD 1.07 (2) An apprentice may receive credit for no more than 9 embalmings in any one quarter of his or her apprenticeship. At the conclusion of an apprenticeship, an apprentice shall have completed a total of 25 embalmings.

SECTION 3. FD 4.03 (4m) is created to read:

FD 4.03 (4m) At least 3 hours in each of the subject areas specified in s. FD 4.04 (1) (a) 1. to 4.

SECTION 4. FD 4.03 (5) is amended to read:

FD 4.03 (5) No more than ~~3~~ 7 hours of the 15-hour requirement may be in approved programs in the subject area specified in s. FD 4.04 ~~(1)-(a)-3~~ (7).

SECTION 4. FD 4.045 is created to read:

FD 4.045 Qualifications for continuing education instructors. Instructors for continuing education shall possess the following minimum qualifications:

(1) Be an instructor of funeral directing who is or has been engaged in the practice of teaching at an accredited institution of higher education.

(2) Be a properly licensed or certified person for the past 5 years.

(3) Be a person who, in the judgment of the board, is qualified by experience or education, or both, to supervise a course of study.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to

determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Notice of Hearing Optometry Examining Board [CR 01-60]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Optometry Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 449.08, Stats., and interpreting ss. 449.01 (1), 449.07 and 449.08, Stats., the Optometry Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber s. Opt 5.02 (1) and (1m); to renumber and amend s. Opt 5.02 (2); to amend s. Opt 5.10 (3) and the Note following s. Opt 5.10 (3); and to create ss. Opt 5.02 (1) and (5) and 5.16, relating to contact lens prescription release by optometrists.

Hearing Date, Time and Location

Date: **July 13, 2001**
Time: 10:15 A.M.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 1, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 449.08

Statutes interpreted: 449.01 (1), 449.07 and 449.08

In this proposed rule-making order the Optometry Examining Board amends ch. Opt 5, relating to unprofessional conduct by optometrists.

Section Opt 5.02 (1), (1m) and (2) are renumbered Opt 5.02 (2), (3) and (4). Section Opt 5.10 (3) is amended to clarify that an optometrist is required to provide patients with copies of contact lens prescriptions under all circumstances, even if the prescriptions have changed, are outdated or may become outdated. The Note following s. Opt 5.10 (3) is amended to include a reference to s. Opt 5.16 relating to unprofessional conduct by optometrists for failure to release contact lens prescriptions.

Section Opt 5.02 (1) is created to define "contact lens prescription" and s. Opt 5.02 (5) is created to state that it shall be unprofessional conduct for an optometrist to fail to release, upon request by a patient and at no cost to the patient, a copy

of the patient's contact lens prescription for replacement contact lenses following release of the patient from contact lens fitting and initial follow-up care.

Text of Rule

SECTION 1. Opt 5.02 (1) is renumbered Opt 5.02 (2).

SECTION 2. Opt 5.02 (1) is created to read:

Opt 5.02 (1) "Contact lens prescription" means a prescription order for a contact lens that includes all of the following:

- (a) The specifications needed to adequately duplicate a contact lens.
- (b) The name, signature and license number of the prescribing optometrist.
- (c) The date of the prescription.
- (d) The date of expiration.
- (e) Provisions for a reasonable number of refills.

SECTION 3. Opt 5.02 (1m) is renumbered Opt 5.02 (3).

SECTION 4. Opt 5.02 (2) is renumbered Opt 5.02 (4) and amended to read:

Opt 5.02 (4) "Lens prescription" means a written order which that contains the specifications for ophthalmic materials for a particular patient for the purpose of treating the refractive or functional abilities of the visual system or the enhancement of visual performance.

SECTION 5. Opt 5.02 (5) is created to read:

Opt 5.02 (5) "Replacement contact lens" means a contact lens that is dispensed to a patient following contact lens fitting and initial follow-up care.

SECTION 6. Opt 5.10 (3) and the Note following Opt 5.10 (3) are amended to read:

Opt 5.10 (3) ~~It shall be unprofessional conduct for an optometrist to provide a patient with a copy of a lens prescription without considering whether the~~ In any instance in which a prescription may have changed, is outdated or may become outdated. In any of these instances, it shall be unprofessional conduct for an optometrist to fail to print or stamp across the face of the prescription, "Warning: This lens prescription may be outdated and may not be relied upon for proper fit and correction" or, "Warning: This lens prescription expires on _____, and may not be relied upon after this date for a proper fit or correction" or, "Expired." A prescription order shall be signed by a licensed optometrist, and the words "lens prescription" written or typed on the face of the order.

Note: ~~FTC Federal Trade Commission Rule 16 CFR456.7 (a) 456.2 (a)~~ requires the release of a spectacle prescription but does not require the release of a contact lens prescription. Under s. Opt 5.16, it is unprofessional conduct for an optometrist to fail to release, upon request by a patient and at no cost to the patient, a copy of the patient's contact lens prescription for replacement contact lens following release of the patient from contact lens fitting and initial follow-up care.

SECTION 7. Opt 5.16 is created to read:

Opt 5.16 Contact lens prescription release. It shall be unprofessional conduct for an optometrist to fail to release, upon request by a patient and at no cost to the patient, a copy of the patient's contact lens prescription for a replacement contact lens following release of the patient from contact lens fitting and initial follow-up care.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Notice of Hearing Public Service Commission

Hearing Date: June 26, 2001
10:00 a.m.

Hearing Location: Public Service Commission
610 North Whitney Way
Madison, WI
(Amnicon Falls Hearing Room –
1st Floor)

At its open meeting on May 15, 2001, the Commission adopted an emergency rule to amend s. PSC 116.03 (4) and create s. PSC 116.04 (1) (b) 6., Wis. Adm. Code, relating to the definition of fuel and permissible fuel costs. Under s. 227.24 (4), Stats., a hearing is necessary following adoption of an emergency rule. The emergency rule took effect upon publication. Publication took place on May 19, 2001.

Analysis Prepared by the Public Service Commission

Statutory authority: ss. 196.02 (1) and (3), 227.11 and 227.24

Statutes interpreted: ss. 196.20 (4) and 196.192 (2) (a)

1999 Wisconsin Act 9, s. 196.192 (2) (a), Stats., required investor-owned utilities to file with the Commission rates that result in customers receiving market-based compensation for voluntary interruptions of firm load during peak periods of electric use. This creates an option that can result in a buydown of firm customers' demand as a direct alternative to purchasing power on the wholesale market that is monitored under the fuel rules set forth at ch. PSC 116, Wis. Adm. Code. Presently, the cost to buy back firm load does not meet the definition of "fuel" set forth at s. PSC 116.03 (4), Wis. Adm. Code.

Fiscal Estimate

The Commission anticipates there will be no fiscal impact of the proposed rules on state and local units of government.

NOTICE IS GIVEN that a hearing will be held beginning on June 26, 2001, at 10:00 a.m. in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge. This

building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the case coordinator listed below.

Anyone having questions regarding the hearing schedule in this notice should contact Administrative Law Judge David C. Whitcomb, Public Service Commission of Wisconsin, P.O. Box 7854, Madison, Wisconsin 53707-7854.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed below.

Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director at (608) 267-0912.

Questions regarding this matter may be directed to Assistant General Counsel Leon M. Swerin at (608) 267-3589 or the docket coordinator Candice C. Spanjar at (608) 267-9537.

Emergency Rules

SECTION 1. PSC 116.03 (4) is amended to read:

PSC 116.03 (4) "Fuel" means coal, gas, nuclear fuel, oil, any other type of material used to generate electricity, and electricity purchased or sold wholesale, and the voluntary curtailable load acquired under s. 196.912(2)(a), Stats.

SECTION 2. PSC 116.04 (1) (b) 6. is created to read:

PSC 116.04 (1) (b) 6. The costs incurred in acquiring voluntary curtailable load under s. 196.192 (2)(a), Stats.

Notice of Hearing

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board [CR 01-59]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats., and interpreting s. 457.09, Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to create s. SFC 3.13 (6), relating to course descriptions for students applying for social worker training certificates.

Hearing Date, Time and Location

Date: **July 12, 2001**
Time: 9:15 A.M.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing,

Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by July 27, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1)

Statute interpreted: s. 457.09

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors creates s. SFC 3.13 (6). Applicants for social worker training certificates must complete certain educational requirements, either before or after being granted the training certificate. Schools offering such courses may seek approval of their educational programs from the Social Worker Section. Currently, requests for such approval occasionally are received too late for the section to act on prior to the program being offered. In the past, courses which are already being taught have been disapproved. This rule will require schools offering social work courses offered to students applying for social worker training certificates to submit course descriptions of the proposed courses to the Social Worker Section for approval well in advance, perhaps six months prior to being taught.

Text of Rule

SECTION 1. SFC 3.13 (6) is created to read:

SFC 3.13 (6) APPROVAL OF COURSES FOR SOCIAL WORKER DEGREE EQUIVALENCY. (a) The section may approve in advance courses offered by an accredited college or university which may be taken by a social worker training certificate holder to satisfy the requirements of sub. (2) (a) to (d).

(b) To obtain advance section approval under par. (a), an accredited college or university must submit course syllabi at least 6 months prior to the commencement of the class. Section approval shall continue for 2 years unless the course content changes. After 2 years, course syllabi must be resubmitted for approval.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Notice of Hearing

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board [CR 01-64]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03 (3), Stats., and interpreting s. 457.08 (1) (c), (2) (c), (3) (d) and (4) (d), Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to create s. SFC 1.05 (7), relating to the state jurisprudence examination.

Hearing Date, Time and Location

Date: **July 12, 2001**
Time: 9:15 A.M.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by July 27, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (3)

Statute interpreted: s. 457.08 (1) (c), (2) (c), (3) (d) and (4) (d)

This proposed rule-making order was initially promulgated as Clearinghouse Rule 00-158. It went through the rule-making process and was ready to be adopted by the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors. At the time of final adoption it was discovered that a change that should have been made was not made. Thus, the board is now proceeding with the correct language.

The Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors issues four different types of social worker certification, based on an applicant's education and experience. An individual who has received one type of certification may later apply for another type. All applicants are currently required to take and pass a state jurisprudence examination. The proposed change would eliminate the need to retake the state jurisprudence examination if the applicant passed the examination within the previous five years.

Text of Rule

SECTION 1. SFC 1.05 (7) is created to read:

SFC 1.05 (7) An applicant for certification as a social worker, advanced practice social worker, independent social

worker or independent clinical social worker, need not take part II of the examination if within the 5 years preceding the date of application, the applicant took and passed part II in the process of applying for and receiving another social worker certification from the section.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Notice of Hearing Transportation [CR 01-65]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07(4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of chapter Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways:

Friday, June 29, 2001

Hill Farms State Transportation Building
4802 Sheboygan Avenue
Room 144-B
Madison, WI

9:00 AM

(Parking is available for persons with disabilities)

The public record on this proposed rule making will be held open until close of business on the date of the hearing to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Ashwani K. Sharma, Traffic Operations Engineer, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, Wisconsin, 53707-7986.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 85.16 (1) and 348.07 (4)

Statute Interpreted: s. 348.07 (4)

General Summary of Proposed Rule. This proposed rule amends s. Trans 276.07 (6), (13) and (24), Wis. Adm. Code, to add three segments of highway to the designated highway system established under s. 348.07 (4), Stats. The actual highway segments¹ that this proposed rule adds to the designated highway system are:

Hwy.	From	To
STH 27	USH 14 S.E. of Viroqua	STH 40 in Radisson
STH 60	USH 12 in Sauk City	IH 43 E. of Grafton
STH 156	STH 22 in Clintonville	STH 29 in Shawano County

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet², a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07 (2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this proposed rule will be to extend the provisions of s. 348.07 (2) (f), (fm), (gm) and (gr), and s. 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Note: ¹ The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

Note: ² 45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city,

village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7986, Room 501, Madison, Wisconsin, 53707-7986, telephone (608) 266-1273. For questions about this rule making, please call Ashwani Sharma, Traffic Operations Engineer at (608) 266-1273. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing

Veterinary Examining Board [CR 01-61]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1), Stats., and interpreting s. 453.07, Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. VE 7.06 (14), relating to the definition of unprofessional conduct of the practice of veterinary medicine.

Hearing Date, Time and Location

Date: **July 25, 2001**
Time: 11:30 A.M.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 8, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1)

Statute interpreted: s. 453.07

In this proposed rule-making order the Veterinary Examining Board amends s. VE 7.06 (14) to define as unprofessional conduct failure to notify clients that the person assisting the veterinarian is a veterinary student or unlicensed assistant. Currently, the rule only covers veterinary students.

Text of Rule

SECTION 1. VE 7.06 (14) is amended to read:

VE 7.06 (14) Failure of the veterinarian to advise the client that the person assisting is a veterinary student or an unlicensed assistant.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department

through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Submission of proposed rules to the legislature

Please check the Bulletin of Proceedings for further information on a particular rule.

Corrections

(CR 01-022)

Ch. DOC 309 – Relating to resources for inmates.

Financial Institutions—Savings Banks

(CR 01-056)

Ch. DFI-SB 16 – Relating to investments in development companies.

Financial Institutions—Savings and Loan

(CR 01-041)

Ch. DFI-SL 16 – Relating to investments in development companies.

Insurance

(CR 00-169)

Ch. Ins 18 – Relating to health benefit plan grievance requirements and independent review organizations.

Natural Resources

(CR 00-160)

Chs. NR 422, 460 and 484 – Relating to volatile organic compound emissions and national emission standards for hazardous air pollutants for wood furniture manufacturing.

Natural Resources

(CR 00-163)

Ch. NR 1 – Relating to wetlands preservation, protection, restoration and management.

Natural Resources

(CR 01-008)

Chs. NR 10, 16 and 17 – Relating to hunting, trapping and captive wildlife.

Natural Resources

(CR 01-012)

Ch. NR 20 – Relating to fishing on the inland, outlying and boundary waters of Wisconsin and fish rearing pond grants.

Natural Resources

(CR 01-013)

Ch. NR 20 – Relating to sport fishing on the inland, outlying and boundary waters and fish refuges on the inland waters of Wisconsin.

Pharmacy Examining Board

(CR 01-023)

Ch. Phar 6 – Relating to minimum equipment.

Transportation

(CR 01-040)

Ch. Trans 276 – Relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rule orders.

**Insurance
(CR 00-188)**

An order affecting ch. Ins 3 relating to long-term care insurance.
Effective 1-1-02

**Insurance
(CR 00-189)**

An order to create ch. Ins 25 relating to privacy of personal nonpublic information.
Effective 8-1-01

**Natural Resources
(CR 00-136)**

An order revising chs. NR 116 and 333 relating to dam design and construction standards and zoning downstream of dams.
Effective 8-1-01

**Natural Resources
(CR 00-176)**

An order to create ch. NR 754 relating to environmental insurance requirements for liability exemptions for voluntary remediation.
Effective 8-1-01

**Natural Resources
(CR 00-178)**

An order revising ch. NR 25 relating to licensing commercial fishers on Lake Michigan.
Effective 7-1-01

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